

STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
STAFFORD COUNTY
FOR THE
STAFFORD REGIONAL AIRPORT ACCESS ROAD PROJECT
(VAR101686)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code ' ' 62.1-44.15(8a and 8d) and 10.1-1185 between the State Water Control Board and Stafford County regarding the Stafford Regional Airport Access Road Project for the purpose of resolving certain violations of the State Water Control Law and Regulations.

SECTION B: Definitions:

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia and described in Va. Code ' ' 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in ' ' 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "VPDES General Permit" means Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Storm Water from Construction Activities, No. VAR101686.

SECTION C: Finding of Facts and Conclusions of Law

1. The Stafford Regional Airport Access Road Phase I project was constructed under the direction of Stafford County. The access road project will cover about 12.5 acres over three phases. Phase I consisted of approximately 5.7 acres.
2. After DEQ received a Prep call on April 26, 2002 and a Pollution Incident Report (IR 2002-N-0747) on April 29, 2002 for possible water impacts and odor complaints from biosolids application, DEQ conducted several site inspections in April, July, September and December 2002 at the airport site.
3. After subsequent meetings and conversations with Stafford County staff, Airport Authority Staff, and County engineering consultants, DEQ confirmed that Stafford County had not obtained coverage under the VPDES General Permit for the access road Phase I project.
4. After a review of agency files, however, DEQ learned that the County had submitted a registration statement for coverage under the VPDES General Permit on October 9, 2001. The information contained in the registration statement indicated that the access road project began on October 1, 2001. In addition, DEQ determined that the registration statement received on October 9, 2001 was deficient. A later discussion with Stafford County revealed that the Access Road Project construction did not start until October 22, 2001.
5. In October and November 2001, DEQ contacted representatives of the access road project concerning the deficient registration statement because according to documentation, DEQ had no record of receiving a revised registration statement.
6. On May 2, 2002, DEQ returned the incomplete registration statement to Stafford County and again requested that the County submit a complete registration statement.

7. On October 7, 2002, based on the site inspections, subsequent conversations, and a review of agency files, DEQ issued Stafford County Notice of Violation No. 2002-10-N-002 for failure to obtain coverage under the VPDES General Permit.
8. On October 18, 2002, DEQ received the completed registration statement from Stafford County and on October 22, 2002, registered Stafford County under VPDES General Permit No. VAR101686, which was after completion of Phase I of the access road project.
9. The Order requires Stafford County to achieve final stabilization of the Airport access road site project, file a Notice of Termination of coverage under the General Permit and pay a civil charge for failure to obtain timely coverage under the VPDES General Permit.

SECTION D: Agreement and Order

Accordingly the State Water Control Board, by virtue of the authority granted it in Va. Code ' 62.1-44.15(8a and 8d), orders Stafford County and Stafford County voluntarily agrees, to pay a civil charge of \$2,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Stafford County shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Stafford County.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Stafford County, for good cause shown by Stafford County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Stafford County by DEQ and dated October 7, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude

appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Stafford County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Stafford County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Stafford County declares it has received fair and due process under the Administrative Process Act, Va. Code ' ' 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Stafford County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Stafford County shall be responsible for failure to comply with any of the terms and conditions by this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Stafford County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Stafford County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order.

Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full

compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a

requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Stafford County. Notwithstanding the foregoing, Stafford County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Stafford County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Stafford County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Stafford County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Stafford County voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of

_____, 2003, by _____, who is
(name)

_____ of Stafford County.
(title)

Notary Public

My commission expires: _____.

APPENDIX A
SCHEDULE OF COMPLIANCE

Stafford County agrees to:

1. By September 30, 2003, establish final stabilization of the Airport access road site project.
2. Within 30 days of achieving final stabilization, file the Notice of Termination (NOT) with DEQ pursuant to Permit No. VAR101686.